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June 16, 1998

BY HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

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JUN 16 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: In the Matter of Assessment and Collection of Regulatory Fees for Fiscal
Year 1998, MD Docket No. 98-36**

***Ex Parte* Presentation**

Dear Ms. Salas:

On behalf of the Rural Telecommunications Group (RTG), we are submitting two copies of the attached written *ex parte* communication pursuant to Section 1.1206(a)(2) of the Commission's rules.

Sincerely,



Caressa D. Bennet
Counsel for the
Rural Telecommunications Group

Enclosure

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Chairman William E. Kennard
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, DC 20554

**Re: In the Matter of Assessment and Collection of Regulatory Fees
for Fiscal Year 1998, MD Docket No. 98-36**

***Ex Parte* Presentation**

Dear Mr. Chairman:

The Rural Telecommunications Group ("RTG"), by its attorneys and pursuant to Section 1.1206(a)(2) of the Federal Communications Commission's rules, hereby submits this *ex parte* communication expressing RTG's opposition to the increase in regulatory fees imposed on Commercial Mobile Radio Services (CMRS) providers as proposed in the *Notice of Proposed Rulemaking (NPRM)*¹ in the above-referenced docket.²

RTG is a group of concerned rural telephone companies who have joined together to promote the efforts of all rural telephone companies to speed the delivery of new, efficient and innovative telecommunications technologies to the populations of remote and under-served parts

¹ In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1998, *Notice of Proposed Rulemaking*, MD Docket No. 98-36, FCC 98-40 (rel. March 25, 1998) ("NPRM").

² In accordance with Section 1.1206(b)(1) of the Commission's rules, two copies of this letter are being filed contemporaneously with the Secretary of the Commission.

of the country. RTG especially advances the interests of rural telephone companies utilizing wireless technologies. RTG members include cellular, broadband PCS, wireless cable, paging and LMDS licensees. Because the Commission's proposed regulatory fee for fiscal year 1998 in the CMRS Mobile Services category is both excessive and burdensome, especially for rural CMRS providers, RTG's members would be adversely affected by its adoption.

In the *NPRM*, the Commission proposed to increase the regulatory fee in the CMRS Mobile Services category by \$.05 per unit, to a total of \$.29 per unit. The five-cent per unit increase represents a hike of 20.8 percent over the fiscal year 1997 assessment. In light of the efficiencies to be realized by streamlined regulatory measures such as the Commission's new complaint procedures, its streamlined auction rules, and the Universal Licensing System (ULS), the proposed assessment is exceedingly high.

Furthermore, the proposed increase in the CMRS Mobile Services category is disproportionate to the cost of regulating CMRS Mobile Service licensees. In Attachment D of the *NPRM*, the Commission lists the fiscal year 1997 total cost, with overhead and other indirect pro-rated costs for CMRS Mobile Services as \$11,840,881. It also lists the adjusted pro-rated costs (the Commission's "best estimate of actual costs attributable to each fee category for FY 1998")³ for that category as \$12,201,768. Thus, the difference between the FY 1997 costs for regulating CMRS and the proposed costs for FY 1998 represents an increase of slightly more than 3 percent. It is patently unfair to burden CMRS providers with a 20.8 percent fee increase when the cost of regulating those licensees has increased a mere 3 percent.

To further illustrate the inequity of the Commission's proposed CMRS Mobile Services regulatory fee, it is helpful to compare the costs and proposed fees for that category with those of other services. For example, the cost of regulating Interstate Telephone providers has increased by approximately 3 percent, while the proposed regulatory fee for FY 1998 has risen by 5.2 percent. Interestingly, the cost of regulating Cable Systems has risen by approximately 2.8 percent, while the proposed regulatory fee in that category has decreased by 18.5 percent! While the Commission admits that its methodology "results in a certain amount of subsidization between fee payer classes"⁴, the Commission's proposal is manifestly inequitable. The proposed regulatory fee treats wireless carriers as "cash cows" which can be raided every time the governments needs to raise revenue.

Indeed, the Commission's proposed fee increase in the CMRS Mobile Services category is another example of what RTG characterizes as "government profit chipping;" *i.e.* the onslaught of fees, taxes, surcharges, and regulatory-related costs imposed on wireless carriers. Such fees include contributions to universal service funds (both high cost support and E-rate support), from

³ *NPRM* at ¶ 16.

⁴ *Id.* at ¶ 18.


which wireless providers will never realistically receive support. Such profit chipping also includes the cost of complying with E-911, number portability, and CALEA requirements, just to name a few.

Moreover, the proposed fee will impose a substantial burden on rural CMRS providers by requiring them to pay yet another tax which they simply cannot afford. Such government profit chipping makes it especially difficult for rural CMRS providers to provide a service, much less compete with the heavily subsidized landline carriers. Rural CMRS providers simply have neither the economies of scale to absorb such FCC-imposed costs, nor the large customer bases that would allow them to raise rates only minimally, by spreading those costs over a large number of subscribers. Therefore, rural CMRS providers must raise their rates consistent with the costs imposed upon them, much to the dissatisfaction of their subscribers. In light of the government's continuing confiscatory attack on wireless service providers, the Commission's proposal is highly unpalatable.

For the foregoing reasons, RTG strongly urges the Commission to reconsider its proposed fiscal year 1998 regulatory fee in the CMRS Mobile Services category.

Respectfully submitted,

RURAL TELECOMMUNICATIONS GROUP

By: 
Caressa D. Bennet
Gregory W. Whiteaker

Its Counsel

cc:	Commissioner Susan Ness	Mr. Peter A. Tenhula
	Commissioner Gloria Tristani	Ms. Karen Gulick
	Commissioner Michael Powell	Mr. David R. Siddall
	Commissioner Harold W. Furchtgott-Roth	Mr. Steve Kaminer
	Mr. Ari Fitzgerald	